

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

AITHENT, INC.,

Plaintiff,

-against-

THE NATIONAL ASSOCIATION OF INSURANCE  
COMMISSIONERS,

Defendant.

Case No. 4:11-CV-00173-GAF

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE #13**

Plaintiff Aithent, Inc. ("**Aithent**") respectfully makes this submission in response to Defendant National Association of Insurance Commissioner's ("**NAIC**") Motion in Limine #13 (Doc. 140), in which NAIC seeks to preclude evidence or argument concerning lost profits that Aithent would have earned from LEO had Aithent not granted NAIC an exclusive license to use LEO. Aithent did not allege a lost profits claim against NAIC, has never pursued any such claim, and does not intend to introduce evidence of what its profits would have been from LEO absent the exclusive license to NAIC. Thus, Aithent does not contest NAIC's Motion. Aithent does intend to introduce evidence showing generally that LEO was a valuable product which had strong commercial potential when it was licensed, but we do not read NAIC's motion as attempting to exclude such evidence. Because Aithent does not intend to prove the amount of revenue it would have earned from LEO, which is what NAIC's motion is directed at, there is no dispute as to the subject matter of NAIC's Motion in Limine # 13.

**Conclusion**

For all of the foregoing reasons, NAIC's Motion In Limine # 13 should be denied.

Respectfully submitted,

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Attorneys for Plaintiff Aithent, Inc.

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served through the Court's ECF system and/or mailed, postage pre-paid, on this 10<sup>th</sup> day of May, 2013 to:

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